

108TH CONGRESS
1ST SESSION

H. R. 1415

To implement effective measures to stop trade in conflict diamonds, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 2003

Mr. HOUGHTON (for himself, Mr. THOMAS, Mr. RANGEL, Mr. CRANE, Mr. LEVIN, Mrs. JOHNSON of Connecticut, Mr. PAYNE, Mr. ENGLISH, Mr. NEAL of Massachusetts, Mr. SHAYS, Mr. JEFFERSON, and Mr. BECERRA) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To implement effective measures to stop trade in conflict
diamonds, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Clean Diamond Trade
5 Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) Funds derived from the sale of rough dia-
2 monds are being used by rebels and state actors to
3 finance military activities, overthrow legitimate gov-
4 ernments, subvert international efforts to promote
5 peace and stability, and commit horrifying atrocities
6 against unarmed civilians. During the past decade,
7 more than 6,500,000 people from Sierra Leone, An-
8 gola, and the Democratic Republic of the Congo
9 have been driven from their homes by wars waged
10 in large part for control of diamond mining areas.
11 A million of these are refugees eking out a miserable
12 existence in neighboring countries, and tens of thou-
13 sands have fled to the United States. Approximately
14 3,700,000 people have died during these wars.

15 (2) The countries caught in this fighting are
16 home to nearly 70,000,000 people whose societies
17 have been torn apart not only by fighting but also
18 by terrible human rights violations.

19 (3) Human rights and humanitarian advocates,
20 the diamond trade as represented by the World Dia-
21 mond Council, and the United States Government
22 have been working to block the trade in conflict dia-
23 monds. Their efforts have helped to build a con-
24 sensus that action is urgently needed to end the
25 trade in conflict diamonds.

1 (4) The United Nations Security Council has
2 acted at various times under chapter VII of the
3 Charter of the United Nations to address threats to
4 international peace and security posed by conflicts
5 linked to diamonds. Through these actions, it has
6 prohibited all states from exporting weapons to cer-
7 tain countries affected by such conflicts. It has fur-
8 ther required all states to prohibit the direct and in-
9 direct import of rough diamonds from Sierra Leone
10 unless the diamonds are controlled under specified
11 certificate of origin regimes and to prohibit abso-
12 lutely the direct and indirect import of rough dia-
13 monds from Liberia.

14 (5) In response, the United States implemented
15 sanctions restricting the importation of rough dia-
16 monds from Sierra Leone to those diamonds accom-
17 panied by specified certificates of origin and fully
18 prohibiting the importation of rough diamonds from
19 Liberia. The United States is now taking further ac-
20 tion against trade in conflict diamonds.

21 (6) Without effective action to eliminate trade
22 in conflict diamonds, the trade in legitimate dia-
23 monds faces the threat of a consumer backlash that
24 could damage the economies of countries not in-
25 volved in the trade in conflict diamonds and penalize

1 members of the legitimate trade and the people they
2 employ. To prevent that, South Africa and more
3 than 30 other countries are involved in working,
4 through the “Kimberley Process”, toward devising a
5 solution to this problem. As the consumer of a ma-
6 jority of the world’s supply of diamonds, the United
7 States has an obligation to help sever the link be-
8 tween diamonds and conflict and press for imple-
9 mentation of an effective solution.

10 (7) Failure to curtail the trade in conflict dia-
11 monds or to differentiate between the trade in con-
12 flict diamonds and the trade in legitimate diamonds
13 could have a severe negative impact on the legiti-
14 mate diamond trade in countries such as Botswana,
15 Namibia, South Africa, and Tanzania.

16 (8) Initiatives of the United States seek to re-
17 solve the regional conflicts in sub-Saharan Africa
18 which facilitate the trade in conflict diamonds.

19 (9) The Interlaken Declaration on the Kim-
20 berley Process Certification Scheme for Rough Dia-
21 monds of November 5, 2002, states that Partici-
22 pants will ensure that measures taken to implement
23 the Kimberley Process Certification Scheme for
24 Rough Diamonds will be consistent with inter-
25 national trade rules.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) CONTROLLED THROUGH THE KIMBERLEY
4 PROCESS CERTIFICATION SCHEME.—An importation
5 or exportation of rough diamonds is “controlled
6 through the Kimberley Process Certification
7 Scheme” if it is an importation from the territory of
8 a Participant or exportation to the territory of a
9 Participant of rough diamonds that is—

10 (A) carried out in accordance with the
11 Kimberley Process Certification Scheme, as set
12 forth in regulations promulgated by the Presi-
13 dent; or

14 (B) controlled under a system determined
15 by the President to meet substantially the
16 standards, practices, and procedures of the
17 Kimberley Process Certification Scheme.

18 (2) EXPORTING AUTHORITY.—The term “ex-
19 porting authority” means one or more entities des-
20 ignated by a Participant from whose territory a
21 shipment of rough diamonds is being exported as
22 having the authority to validate the Kimberley Proc-
23 ess Certificate.

24 (3) IMPORTING AUTHORITY.—The term “im-
25 porting authority” means one or more entities des-
26 ignated by a Participant into whose territory a ship-

1 ment of rough diamonds is imported as having the
2 authority to enforce the laws and regulations of the
3 Participant regulating imports, including the
4 verification of the Kimberley Process Certificate ac-
5 companying the shipment.

6 (4) KIMBERLEY PROCESS CERTIFICATE.—The
7 term “Kimberley Process Certificate” means a for-
8 gery resistant document of a Participant that dem-
9 onstrates that an importation or exportation of
10 rough diamonds has been controlled through the
11 Kimberley Process Certification Scheme and con-
12 tains the minimum elements set forth in Annex I of
13 the Kimberley Process Certification Scheme.

14 (5) KIMBERLEY PROCESS CERTIFICATION
15 SCHEME.—The term “Kimberley Process Certifi-
16 cation Scheme” means those standards, practices,
17 and procedures of the international certification
18 scheme for rough diamonds presented in the docu-
19 ment entitled “Kimberley Process Certification
20 Scheme” referred to in the Interlaken Declaration
21 on the Kimberley Process Certification Scheme for
22 Rough Diamonds of November 5, 2002.

23 (6) PARTICIPANT.—The term “Participant”
24 means a state, customs territory, or regional eco-

1 nomic integration organization identified by the Sec-
2 retary of State.

3 (7) PERSON.—The term “person” means an in-
4 dividual or entity.

5 (8) ROUGH DIAMOND.—The term “rough dia-
6 mond” means any diamond that is unworked or sim-
7 ply sawn, cleaved, or bruted and classifiable under
8 subheading 7102.10, 7102.21, or 7102.31 of the
9 Harmonized Tariff Schedule of the United States.

10 (9) UNITED STATES.—The term “United
11 States”, when used in the geographic sense, means
12 the several States, the District of Columbia, and any
13 commonwealth, territory, or possession of the United
14 States.

15 (10) UNITED STATES PERSON.—The term
16 “United States person” means—

17 (A) any United States citizen or any alien
18 admitted for permanent residence into the
19 United States;

20 (B) any entity organized under the laws of
21 the United States or any jurisdiction within the
22 United States (including its foreign branches);
23 and

24 (C) any person in the United States.

1 **SEC. 4. MEASURES FOR THE IMPORTATION AND EXPOR-**
2 **TATION OF ROUGH DIAMONDS.**

3 (a) PROHIBITION.—The President shall prohibit the
4 importation into, or exportation from, the United States
5 of any rough diamond, from whatever source, that has not
6 been controlled through the Kimberley Process Certifi-
7 cation Scheme.

8 (b) WAIVER.—The President may waive the require-
9 ments set forth in subsection (a) with respect to a par-
10 ticular country for periods of not more than 1 year each,
11 if, with respect to each such waiver—

12 (1) the President determines and reports to the
13 Congress that such country is taking effective steps
14 to implement the Kimberley Process Certification
15 Scheme; or

16 (2) the President determines that the waiver is
17 in the national interests of the United States, and
18 reports such determination to the Congress, together
19 with the reasons therefor.

20 **SEC. 5. REGULATORY AND OTHER AUTHORITY.**

21 (a) IN GENERAL.—The President is authorized to
22 and shall as necessary issue such proclamations, regula-
23 tions, licenses, and orders, and conduct such investiga-
24 tions, as may be necessary to carry out this Act.

25 (b) RECORDKEEPING.—Any United States person
26 seeking to export from or import into the United States

1 any rough diamonds shall keep a full record of, in the form
2 of reports or otherwise, complete information relating to
3 any act or transaction to which any prohibition imposed
4 under section 4(a) applies. The President may require
5 such person to furnish such information under oath, in-
6 cluding the production of books of account, records, con-
7 tracts, letters, memoranda, or other papers, in the custody
8 or control of such person.

9 (c) OVERSIGHT.—The President shall require the ap-
10 propriate Government agency to conduct annual reviews
11 of the standards, practices, and procedures of any entity
12 in the United States that issues Kimberley Process Certifi-
13 cates for the exportation from the United States of rough
14 diamonds to determine whether such standards, practices,
15 and procedures are in accordance with the Kimberley
16 Process Certification Scheme. The President shall trans-
17 mit to the Congress a report on each annual review under
18 this subsection.

19 **SEC. 6. IMPORTING AND EXPORTING AUTHORITIES.**

20 (a) IN THE UNITED STATES.—For purposes of this
21 Act—

22 (1) the importing authority shall be the United
23 States Bureau of Customs and Border Protection or,
24 in the case of a territory or possession of the United

1 States with its own customs administration,
2 analagous officials; and

3 (2) the exporting authority shall be the Bureau
4 of the Census.

5 (b) OF OTHER COUNTRIES.—The Secretary of State
6 shall publish in the Federal Register a list of all Partici-
7 pants, and all exporting authorities and importing authori-
8 ties of Participants. The Secretary shall update the list
9 as necessary.

10 **SEC. 7. STATEMENT OF POLICY.**

11 The Congress supports the policy that the President
12 take appropriate steps to promote and facilitate the adop-
13 tion by the international community of the Kimberley
14 Process Certification Scheme implemented under this Act.

15 **SEC. 8. ENFORCEMENT.**

16 (a) IN GENERAL.—Subject to subsection (b)—

17 (1) a civil penalty of not to exceed \$10,000 may
18 be imposed on any person who violates, or attempts
19 to violate, any license, order, or regulation issued
20 under this Act; and

21 (2) whoever willfully violates, or willfully at-
22 tempts to violate, any license, order, or regulation
23 issued under this Act shall, upon conviction, be fined
24 not more than \$50,000, or, if a natural person, may
25 be imprisoned for not more than 10 years, or both;

1 and any officer, director, or agent of any corporation
2 who knowingly participates in such violation may be
3 punished by a like fine, imprisonment, or both.

4 (b) IMPORT VIOLATIONS.—Those civil and criminal
5 penalties, including seizure and forfeiture, under the cus-
6 toms laws of the United States that apply to goods im-
7 ported in violation of such laws shall apply with respect
8 to rough diamonds imported in violation of this Act or any
9 regulation, license, or order issued under this Act.

10 **SEC. 9. TECHNICAL ASSISTANCE.**

11 The President may direct the appropriate agencies of
12 the United States Government to make available technical
13 assistance to countries seeking to implement the Kim-
14 berley Process Certification Scheme.

15 **SEC. 10. SENSE OF CONGRESS.**

16 (a) ONGOING PROCESS.—It is the sense of the Con-
17 gress that the Kimberley Process Certification Scheme, of-
18 ficially launched on January 1, 2003, is an ongoing proc-
19 ess. The President should work with Participants to
20 strengthen the Kimberley Process Certification Scheme
21 through the adoption of measures for the sharing of statis-
22 tics on the production of and trade in rough diamonds,
23 and for monitoring the effectiveness of the Kimberley
24 Process Certification Scheme in stemming trade in dia-
25 monds the importation or exportation of which is not con-

1 trolled through the Kimberley Process Certification
2 Scheme.

3 (b) STATISTICS AND REPORTING.—It is the sense of
4 the Congress that under Annex III to the Kimberley Proc-
5 ess Certification Scheme, Participants recognized that re-
6 liable and comparable data on the international trade in
7 rough diamonds are an essential tool for the effective im-
8 plementation of the Kimberley Process Certification
9 Scheme. Therefore, the executive branch should continue
10 to—

11 (1) keep and publish statistics on imports and
12 exports of rough diamonds under subheadings
13 7102.10.00, 7102.21, and 7102.31.00 of the Har-
14 monized Tariff Schedule of the United States;

15 (2) make these statistics available for analysis
16 by interested parties and by Participants; and

17 (3) take a leadership role in negotiating a
18 standardized methodology among Participants for
19 reporting statistics on imports and exports of rough
20 diamonds.

21 **SEC. 11. REPORTS.**

22 (a) ANNUAL REPORTS.—Not later than 1 year after
23 the date of the enactment of this Act and every 12 months
24 thereafter for such period as this Act is in effect, the
25 President shall transmit to the Congress a report—

1 (1) describing actions taken by countries that
2 have exported rough diamonds to the United States
3 during the preceding 12-month period to control the
4 exportation of the diamonds through the Kimberley
5 Process Certification Scheme; and

6 (2) identifying each country that, during the
7 preceding 12-month period, exported rough dia-
8 monds to the United States and was exporting rough
9 diamonds not controlled through the Kimberley
10 Process Certification Scheme, if the failure to do so
11 has significantly increased the likelihood that those
12 diamonds not so controlled are being imported into
13 the United States.

14 (b) SEMIANNUAL REPORTS.—For each country iden-
15 tified in subsection (a)(2), the President, during such pe-
16 riod as this Act is in effect, shall, every 6 months after
17 the initial report in which the country was identified,
18 transmit to the Congress a report that explains what ac-
19 tions have been taken by the United States or such coun-
20 try since the previous report to ensure that diamonds the
21 exportation of which was not controlled through the Kim-
22 berley Process Certification Scheme are not being im-
23 ported from that country into the United States. The re-
24 quirement to issue a semiannual report with respect to a
25 country under this subsection shall remain in effect until

1 such time as the country is controlling the importation and
2 exportation of rough diamonds through the Kimberley
3 Process Certification Scheme.

4 **SEC. 12. GAO REPORT.**

5 Not later than 24 months after the effective date of
6 this Act, the Comptroller General of the United States
7 shall transmit a report to the Congress on the effective-
8 ness of the provisions of this Act in preventing the impor-
9 tation or exportation of rough diamonds that is prohibited
10 under section 4. The Comptroller General shall include in
11 the report any recommendations on any modifications to
12 this Act that may be necessary.

13 **SEC. 13. EFFECTIVE DATE.**

14 This Act shall take effect on the date on which the
15 President certifies to the Congress that—

16 (1) an applicable waiver that has been granted
17 by the World Trade Organization is in effect; or

18 (2) an applicable decision in a resolution adopt-
19 ed by the United Nations Security Council pursuant
20 to Chapter VII of the Charter of the United Nations
21 is in effect.

22 This Act shall thereafter remain in effect during those pe-
23 riods in which, as certified by the President to the Con-

- 1 gress, an applicable waiver or decision referred to in para-
- 2 graph (1) or (2) is in effect.

